

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: February 9, 2015

<p>*****</p> <p>JOHNNY and ANNA MARTIN,</p> <p>As parents of H.D.M.,</p> <p style="padding-left: 40px;">Petitioners,</p> <p>v.</p> <p>SECRETARY OF HEALTH AND HUMAN SERVICES,</p> <p style="padding-left: 40px;">Respondent.</p> <p>*****</p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p>UNPUBLISHED</p> <p>No. 14-142V</p> <p>Special Master Dorsey</p> <p>Attorneys' Fees and Costs; Reasonable Amount Requested to which Respondent Does not Object.</p>
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Mark L. Krueger, Krueger & Hernandez, S.C., Baraboo, WI, for petitioners.
Claudia Barnes Gangi, United States Department of Justice, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On February 19, 2014, Johnny and Anna Martin ("petitioners") filed a petition on behalf of their son, H.D.M. ("HDM"), under the National Vaccine Injury Compensation Program² 42 U.S.C. §§ 300aa-1 to -34 (2006). Petitioners alleged that the influenza ("flu") vaccine administered to HDM on November 9, 2010, caused him to develop transverse myelitis. On December 31, 2014, the parties filed a Joint Stipulation of Dismissal stating that to date, petitioners had not submitted sufficient evidence to support their claim that their son's injury was

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire decision will be available to the public. Id.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

caused by vaccination. On January 5, 2015, an Order Concluding Proceedings was entered dismissing the petition without prejudice.

On January 29, 2015, petitioners filed an application for attorneys' fees and costs. On February 9, 2015, the parties filed a Stipulation of Facts Concerning Attorneys' Fees and Costs. According to the stipulation, the parties stipulate to a total award to petitioners of attorneys' fees and costs in the amount of \$12,291.81. In accordance with General Order #9, petitioners' counsel states that petitioners personally incurred \$400.00, in costs in pursuit of their claim.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioners' request and the lack of any objection by respondent, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs.

Accordingly, an award should be made as follows:

- (1) in the form of a check jointly payable to petitioners and to petitioners' attorney, Mark L. Krueger, in the amount of **\$12,291.81**, and
- (2) in the form of a check payable to petitioners only in the amount of **\$400.00**.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.